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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,236	12/05/2003	Roger Thomas	P-US-PR-1105	9203
28268 7590 11/30/2007 THE BLACK & DECKER CORPORATION 701 EAST JOPPA ROAD, TW199 TOWSON, MD 21286			EXAMINER SELF, SHELLEY M	
			ART UNIT 3725	PAPER NUMBER
			MAIL DATE 11/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/729,236

Applicant(s)

THOMAS, ROGER

Examiner

Shelley Self

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 19, 2007 has been entered.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. With regard to claim 5, neither the originally filed specification nor the drawings provide support for both embodiments recited within the claim. For example the recitation, "*wherein one of the first part and the second part is mounted on the receptacle and the other of the first part and the second part is mounted on the cap*" encompasses more than one embodiment. Such recitation encompasses a first embodiment wherein the first part (movable pegs) are mounted on the receptacle and the

second part (T-shaped slot) is mounted on the cap; and a second embodiment wherein the first part (movable pegs) are mounted on the cap and the second part (T-shaped slot) is mounted on the receptacle. Examiner notes the originally filed disclosure supports only an embodiment of a first part (movable pegs, 122) mounted on the receptacle (fig. 10) and the second part (T-shaped slot, 112) mounted on the cap (fig. 10). Applicants' attempt to draft a broad claim encompasses embodiments not fully supported in the original disclosure and results in ambiguity within the claimed invention. Clarification is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 5, the recitation, "*debris...can be removed from the receptacle*" renders the claimed invention vague and indefinite; i.e., is the debris removed from the receptacle or not? Examiner suggests--debris...is removed--.

Examiner further suggests, Applicant review all claims for the indefinite recitation, "can" and correct appropriately.

### ***Response to Arguments***

Applicant's arguments filed September 19, 2007 have been carefully considered but they are not persuasive. Applicants argues that the Finality of the previous Office Action was incorrect because the amendment filed January 30, 2007 in response to the Office Action filed

July 31, 2006 corrected only formal matters and therefore did not necessitate the new grounds of rejection. This argument however is not deemed persuasive, because although formal matters were corrected within the amendment, structure was also deleted (biasing means to resilient bias...the biasing force of the biasing means to move). Examiner notes the amended claim states, "wherein the pegs are biased", such however is not synonymous with a biasing means for biasing or means for resiliently biasing. A means clause as defined by 35 U.S.C. 6<sup>th</sup> paragraph is a means plus function and is drawn to direct equivalent means/structure. Due to the non-compliance to 35 U.S.C. 6<sup>th</sup> paragraph (see Office Action 7/31/06), Applicant's recitation, "biasing means to resiliently bias" resulted in the claimed invention being examined as best as could be understood, i.e., to mean, "means for resiliently biasing", to delete the means recitation within the claim as presented in the first amendment (1/30/07) is a deletion of structure. The deletion of structure in the claimed invention resulted in a new grounds of rejection and the grounds of rejection was properly made final. Accordingly the finality of the previous Office Action stands.

### *Conclusion*

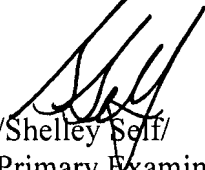
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is 571-272-4524. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/Shelley Self/  
Primary Examiner  
Art Unit 3725

November 26, 2007